

House Bill 1380

By: Representatives May of the 111th, Smith of the 129th, Harbin of the 118th, and Rogers of the 26th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 46 of the Official Code of Georgia Annotated, relating to public
2 utilities and public transportation generally, so as to clarify that state government rideshare
3 programs are neither for hire nor carrier operations; to provide for related matters; to provide
4 an effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

7 Chapter 1 of Title 46 of the Official Code of Georgia Annotated, relating to public utilities
8 and public transportation generally, is revised in Code Section 46-1-1, relating to definitions,
9 as follows:

10 "46-1-1.

11 As used in this title, the term:

12 (1) 'Carrier' means a person who undertakes the transporting of goods or passengers for
13 compensation.

14 (2) 'Certificate' means a certificate of public convenience and necessity issued pursuant
15 to this title.

16 (3) 'Commission' means the Public Service Commission.

17 (4) 'Company' shall include a corporation, a firm, a partnership, an association, or an
18 individual.

19 (5) 'Electric utility' means any retail supplier of electricity whose rates are fixed by the
20 commission.

21 (6) 'For compensation' or 'for hire' means an activity wherein for payment or other
22 compensation a motor vehicle and driver are furnished to a person by another person,
23 acting directly or knowingly and willfully acting with another to provide the combined
24 service of the vehicle and driver, and includes every person acting in concert with, under
25 the control of, or under common control with a motor carrier who shall offer to furnish

1 transportation for compensation; provided that government rideshare programs shall be
2 deemed to involve no element of transportation 'for compensation' or 'for hire.'

3 (6.1) 'Gas company' means any person certificated under Article 2 of Chapter 4 of this
4 title to construct or operate any pipeline or distribution system, or any extension thereof,
5 for the transportation, distribution, or sale of natural or manufactured gas.

6 (6.2) 'Government rideshare program' means a vanpool or other similar rideshare
7 program operated by, subsidized by, or conducted through a contract with a state or local
8 government agency, authority, or other entity.

9 (7) 'Household goods' means any personal effects and property used or to be used in a
10 dwelling when a part of the equipment or supplies of such dwelling and such other
11 similar property as the commission may provide for by regulation; provided, however,
12 that such term shall not include property being moved from a factory or store except
13 when such property has been purchased by a householder with the intent to use such
14 property in a dwelling and such property is transported at the request of, and with
15 transportation charges paid by, the householder.

16 (8) 'Motor carrier of property' means a motor common or contract carrier engaged in
17 transporting property, except household goods, in intrastate commerce in this state.

18 (9) 'Motor contract carrier and motor common carrier' means as follows:

19 (A) 'Motor contract carrier' means every person, except common carriers, owning,
20 controlling, operating, or managing any motor propelled vehicle including the lessees
21 or trustees of such persons or receivers appointed by any court used in the business of
22 transporting persons or property for hire over any public highway in this state and not
23 operated exclusively within the corporate limits of any city.

24 (B) 'Motor common carrier' means every person owning, controlling, operating, or
25 managing any motor propelled vehicle, and the lessees, receivers, or trustees of such
26 person, used in the business of transporting for hire of persons or property, or both,
27 otherwise than over permanent rail tracks, on the public highways of Georgia as a
28 common carrier. The term includes, but is not limited to, limousine carriers as defined
29 in paragraph (5) of Code Section 46-7-85.1.

30 (C) Except as otherwise provided in this subparagraph, the terms 'motor common
31 carrier' and 'motor contract carrier' shall not include:

32 (i) Motor vehicles engaged solely in transporting school children and teachers to and
33 from public schools and private schools;

34 (ii) Taxicabs, drays, trucks, buses, and other motor vehicles which operate within the
35 corporate limits of municipalities and are subject to regulation by the governing
36 authorities of such municipalities. This exception shall apply to such vehicles even
37 though such vehicles may, in the prosecution of their regular business, occasionally

1 go beyond the corporate limits of such municipalities. Such exception shall not
2 include such vehicles engaged in the moving of household goods nor include
3 passenger vans (I) having a capacity of ten persons or more, (II) conducting
4 nonmetered transportation service and not operated by a municipality or municipal,
5 county, or regional governmental authority, and (III) which are engaged in private
6 for-hire transportation operating between points within the corporate limits of a
7 municipality. Pursuant to Code Section 44-1-13, all tow trucks engaged in
8 nonconsensual towing operations between points within the corporate limits of a
9 municipality shall remain subject to the jurisdiction of the commission and the
10 municipality within which such nonconsensual towing operations are conducted;

11 (iii) Hotel passenger or baggage motor vehicles when used exclusively for patrons
12 and employees of such hotel;

13 (iv) Motor vehicles used in, vehicle lessors for, operators of, and participants in
14 government rideshare programs;

15 ~~(iv)~~(v) Motor vehicles operated not for profit with a capacity of 15 persons or less
16 when they are used exclusively to transport elderly and disabled passengers or
17 employees under a corporate sponsored van pool program, except that a vehicle
18 owned by the driver may be operated for profit when such driver is traveling to and
19 from his or her place of work provided each such vehicle carrying more than nine
20 passengers maintains liability insurance in an amount of not less than \$100,000.00 per
21 person and \$300,000.00 per accident and \$50,000.00 property damage. For the
22 purposes of this division, elderly and disabled passengers are defined as individuals
23 over the age of 60 years or who, by reason of illness, injury, age, congenital
24 malfunction, or other permanent or temporary incapacity or disability, are unable to
25 utilize mass transportation facilities as effectively as persons who are not so affected;

26 ~~(v)~~(vi) Granite trucks, where transportation from quarry to finishing plant involves
27 not crossing more than two counties;

28 ~~(vi)~~(vii) RFD carriers and star-route carriers which carry no more than nine
29 passengers along with carriage of the United States mail, provided that such carriers
30 shall not carry passengers on a route along which another motor common carrier or
31 motor contract carrier of passengers has a permit or a certificate to operate;

32 ~~(vii)~~(viii) Motor trucks of railway companies which perform a pick-up and delivery
33 service in connection with their freight train service, between their freight terminals
34 and points not more than ten miles distant, when either the freight terminal or such
35 points, or both, are outside the limits of an incorporated city;

36 ~~(viii)~~(ix) Motor vehicles owned and operated exclusively by the United States
37 government or by this state or any subdivision thereof;

1 ~~(ix)~~(x) Single source leasing whereby a leasing company whose primary business is
2 leasing vehicles and who operates a fleet of ten or more vehicles provides vehicle
3 equipment and drivers in a single transaction to a private carrier. Such arrangement
4 is presumed to result in private carriage by the shipper if the requirements enumerated
5 below are met and subject only to the commission's transportation safety rules:

6 (I) The lease must be reduced to writing and a copy maintained on the leased
7 vehicle at all times during the term of the lease;

8 (II) The period for which the lease applies must be no less than 30 days;

9 (III) The lease agreement must provide, and the surrounding facts must reflect, that
10 the leased equipment is exclusively committed to the lessee's use for the term of the
11 lease;

12 (IV) The lease agreement must provide, and the surrounding facts must reflect, that
13 during the term of the lease the lessee accepts, possesses, and exercises exclusive
14 dominion and control over the leased equipment and assumes complete
15 responsibility for the operation of the equipment;

16 (V) The lessee must maintain public liability insurance and accept responsibility
17 to the public for any injury caused in the course of performing the transportation
18 service conducted by the lessee with the equipment during the term of the lease;

19 (VI) The lessee shall display appropriate identification on all equipment leased by
20 it showing operation by the lessee during the performance of the transportation;

21 (VII) The lessee must accept responsibility for, and bear the cost of, compliance
22 with safety regulations during performance by the lessee of any such transportation
23 services; and

24 (VIII) The lessee must bear the risk of damage to the cargo, subject to any right of
25 action the lessee may have against the lessor for the latter's negligence;

26 ~~(x)~~(xi) Motor vehicles engaged exclusively in the transportation of agricultural or
27 dairy products, or both, between farm, market, gin, warehouse, or mill, whether such
28 motor vehicle is owned by the owner or producer of such agricultural or dairy
29 products or not, so long as the title remains in the producer. For the purposes of this
30 division, the term 'producer' includes a landlord where the relations of landlord and
31 tenant or landlord and cropper are involved. As used in this division, the term
32 'agricultural products' includes fruit, livestock, meats, fertilizer, wood, lumber, cotton,
33 and naval stores; household goods and supplies transported to farms for farm
34 purposes; or other usual farm and dairy supplies, including products of grove or
35 orchard; poultry and eggs; fish and oysters; and timber or logs being hauled by the
36 owner thereof or the owner's agents or employees between forest and mill or primary
37 place of manufacture; provided, however, motor vehicles with a manufacturer's gross

weight rated capacity of 44,000 pounds or more engaged solely in the transportation of unmanufactured forest products shall be subject to the Georgia Forest Products Trucking Rules which shall be adopted and promulgated by the commissioner of public safety only for application to such vehicles and vehicles defined in subparagraph (A) of paragraph (13) of this Code section; provided, further, that pulpwood trailers and pole trailers with a manufacturer's gross weight rated capacity of 10,001 pounds or more engaged solely in the transportation of unmanufactured forest products shall have two amber side marker reflectors on each side of the trailer chassis between the rear of the tractor cab and the rearmost support for the load. All such reflectors shall be not less than four inches in diameter. Such rules and any amendments thereto adopted by the commissioner of public safety shall be subject to legislative review in accordance with the provisions of Code Section 46-2-30, and, for the purposes of such rules and any amendments thereto, the Senate Natural Resources and the Environment Committee and the House Committee on Natural Resources and Environment shall be the appropriate committees within the meaning of said Code Section 46-2-30. The first such rules adopted by the commissioner of public safety shall be effective July 1, 1991;

~~(xi) Reserved;~~

(xii) Reserved;

(xiii) Vehicles, owned or operated by the federal or state government, or by any agency, instrumentality, or political subdivision of the federal or state government, or privately owned and operated for profit or not for profit, capable of transporting not more than ten persons for hire when such vehicles are used exclusively to transport persons who are elderly, disabled, en route to receive medical care or prescription medication, or returning after receiving medical care or prescription medication. For the purpose of this division, elderly and disabled persons shall have the same meaning as in division ~~(iv)~~ (v) of this paragraph;

(xiv) Reserved; or

(xv) Ambulances.

(10) 'Passenger' means a person who travels in a public conveyance by virtue of a contract, either express or implied, with the carrier as to the payment of the fare or that which is accepted as an equivalent therefor. The prepayment of fare is not necessary to establish the relationship of passenger and carrier; although a carrier may demand prepayment of fare if persons enter his or her vehicle by his or her permission with the intention of being carried; in the absence of such a demand, an obligation to pay fare is implied on the part of the passenger, and the reciprocal obligation of carriage of the carrier arises upon the entry of the passenger.

1 (11) 'Permit' means a registration permit issued by the state revenue commissioner
2 authorizing interstate transportation for hire exempt from the jurisdiction of the United
3 States Department of Transportation or intrastate passenger transportation for hire exempt
4 from the jurisdiction of the state revenue commissioner or intrastate transportation by a
5 motor carrier of property.

6 (12) 'Person' means any individual, partnership, trust, private or public corporation,
7 municipality, county, political subdivision, public authority, cooperative, association, or
8 public or private organization of any character.

9 (13) 'Private carrier' means every person except motor common carriers or motor
10 contract carriers owning, controlling, operating, or managing any motor propelled
11 vehicle, and the lessees or trustees thereof or receivers appointed by any court
12 whatsoever, used in the business of transporting persons or property in private
13 transportation not for hire over any public highway in this state. The term 'private carrier'
14 shall not include:

15 (A) Motor vehicles not for hire engaged solely in the harvesting or transportation of
16 forest products; provided, however, that motor vehicles not for hire with a
17 manufacturer's gross weight rated capacity of 44,000 pounds or more engaged solely
18 in the transportation of unmanufactured forest products shall be subject only to the
19 Georgia Forest Products Trucking Rules provided for in division (9)(C)(x) of this Code
20 section;

21 (B) Motor vehicles not for hire engaged solely in the transportation of road-building
22 materials;

23 (C) Motor vehicles not for hire engaged solely in the transportation of unmanufactured
24 agricultural or dairy products between farm, market, gin, warehouse, or mill whether
25 such vehicle is owned by the owner or producer of such agricultural or dairy products
26 or not, so long as the title remains in the producer; ~~or~~

27 (D) Except for the motor vehicles excluded under subparagraph (C) of this paragraph,
28 motor vehicles having a manufacturer's gross vehicle weight rating of 10,000 pounds
29 or less; provided, however, that motor vehicles which have a manufacturer's gross
30 vehicle weight rating of 10,000 pounds or less and which are transporting hazardous
31 materials, as the term 'hazardous materials' is defined in Title 49 C.F.R., Parts 107,
32 171-173, and 177-178, shall be included within the meaning of the term 'private
33 carrier-'; or

34 (E) Motor vehicles used in, vehicle lessors for, operators of, and participants in
35 government rideshare programs.

36 (14) 'Public highway' means every public street, road, highway, or thoroughfare of any
37 kind in this state.

1 (15) 'Railroad corporation' or 'railroad company' means all corporations, companies, or
2 individuals owning or operating any railroad in this state. This title shall apply to all
3 persons, firms, and companies, and to all associations of persons, whether incorporated
4 or otherwise, that engage in business as common carriers upon any of the lines of railroad
5 in this state, as well as to railroad corporations and railroad companies as defined in this
6 Code section.

7 (16) 'Rate,' when used in this title with respect to an electric utility, means any rate,
8 charge, classification, or service of an electric utility or any rule or regulation relating
9 thereto.

10 (17) 'Utility' means any person who is subject in any way to the lawful jurisdiction of the
11 commission.

12 (18) 'Vehicle' or 'motor vehicle' means any vehicle, machine, tractor, trailer, or
13 semitrailer propelled or drawn by mechanical power and used upon the highways in the
14 transportation of passengers or property, or any combination thereof, determined by the
15 state revenue commissioner."

16 **SECTION 2.**

17 This Act shall become effective upon its approval by the Governor or upon its becoming law
18 without such approval.

19 **SECTION 3.**

20 All laws and parts of laws in conflict with this Act are repealed.